STATE OF MICHIGAN

COURT OF APPEALS

BRYAN MCDONALD,

Plaintiff-Appellant,

v

WESCO, INC.,

Defendant-Appellee.

UNPUBLISHED
May 23, 2006

No. 259528
Mason Circuit Court
LC No. 04-000185-NO

Before: Murphy, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court order granting summary disposition to defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff injured himself when he slipped and fell on snow-covered ice in the parking lot of defendant's gas station. According to defendant, there were snow flurries that day, although the accumulation was only about a quarter inch. Plaintiff testified that his feet slipped out from him as he exited his truck. He testified that snow covered the lot and sidewalk leading to the store, but he did not have any trouble walking except where he slipped and fell. Plaintiff filed suit, claiming that the parking lot was defective and unreasonably dangerous. Defendant moved for summary disposition pursuant to MCR 2.116(C)(10) on the ground that the slippery condition of the parking lot was open and obvious, and there were no special aspects of the lot that made it unreasonably dangerous. The trial court granted defendant's motion.

Plaintiff argues that the parking lot's dangerous condition was not open and obvious. We disagree. We review de novo a trial court's decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). We view the evidence submitted in the light most favorable to the party opposing the motion. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 618; 537 NW2d 185 (1995). A premises possessor owes a duty of care to an invitee, such as plaintiff, to exercise reasonable care to protect him from the unreasonable risk of harm caused by dangerous conditions on the land. *Bertand*, *supra* at 609. "This duty generally does not encompass a duty to protect an invitee from 'open and obvious' dangers." *Mann v Shusteric Enterprises, Inc*, 470 Mich 320, 328; 683 NW2d 573 (2004). Plaintiff does not raise the issue of any "special aspects" that would render the condition unreasonably dangerous despite its open and obvious nature. *Lugo v Ameritech*, 464 Mich 512, 517; 629 NW2d 384 (2001). Instead,

plaintiff relies almost exclusively on our recently reversed opinion in *Kenny v Kaatz Funeral Home, Inc*, 264 Mich App 99; 689 NW2d 737 (2004), rev'd 472 Mich 929 (2005), to support his argument that the condition was not open and obvious.

Plaintiff, a seventeen-year resident of Ludington, was familiar with northern Michigan weather in January. Plaintiff visited defendant's business on a daily basis and parked in the same parking space each time. He testified that on the occasion in question, the parking lot and sidewalk had accumulated "new" snow, so he knew that he was alighting from his truck into snow. The inherent slipperiness of the snow and the likelihood of slippery ice underneath it made the slippery condition an open and obvious danger that a reasonably prudent person would have recognized. *Ververis v Hartfield Lanes*, ___ Mich App ___, at slip op p 9; ___ NW2d ___ (Docket No. 251868, issued May 2, 2006).

Affirmed.

/s/ Peter D. O'Connell
/s/ Christopher M. Murray